

STATE: MINNESOTA

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I. For purposes of computing the amount of allowed inflation, the Commissioner must apply the following principles:

(1) the lesser of the Consumer Price Index for all urban consumers or the Dodge Construction Systems Costs for Nursing Homes for any time periods during which both are available must be used. If the Dodge Construction Systems Costs for Nursing Homes becomes unavailable, the Commissioner shall substitute the index in Section 15.040, item A, subitem (4), or such other index as the secretary of the health care financing administration may designate;

(2) the amount of allowed inflation to be applied to the capital assets in item G subitems (1) and (2), must be computed separately;

(3) the amount of allowed inflation must be determined on an annual basis, prorated on a monthly basis for partial years and if the initial month of use is not determinable for a capital asset, then one-half of that calendar year shall be used for purposes of prorating;

(4) the amount of allowed inflation to be applied to the capital assets in item G, subitems (1) and (2), must not exceed 300 percent of the total capital assets in any one of those clauses; and

(5) the allowed inflation must be computed starting with the month following the nursing facility's most recent previous effective date of sale or, if there has been no previous sale, the month following the date of the nursing facility's initial occupancy, and ending with the month preceding the effective date of sale.

J. If the historical cost of a capital asset is not readily available for the date of the nursing facility's most recent previous sale or if there has been no previous sale for the date of the nursing facility's initial occupancy, then the Commissioner shall limit the total allowable debt and related interest after sale to the extent recognized by the Medicare intermediary after the sale. For a nursing facility that has no historical capital asset cost data available and does not have allowable debt and interest calculated by the Medicare intermediary, the Commissioner shall use the historical cost of capital asset data from the point in time for which capital asset data is recorded in the nursing facility's audited financial statements.

K. The limitations in this subdivision apply only to debt resulting from a sale of a nursing facility occurring after June 30, 1992, including debt assumed by the purchaser of the nursing facility.

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**SECTION 15.1372 Capital repair and replacement cost reporting and rate calculation.**

For rate years beginning after June 30, 1993, a nursing facility's capital repair and replacement payment rate shall be established annually as provided in items A to E.

A. Notwithstanding Section 15.120, the costs of any of the following items, not included in the equity incentive computation under Section 15.1373 or reported as a capital asset addition under Section 15.375, item B, including cash payment for equity investment and principal and interest expense for debt financing, must be reported in the capital repair and replacement cost category when the cost of the item exceeds \$500:

- (1) wall coverings;
- (2) paint;
- (3) floor coverings;
- (4) window coverings;
- (5) roof repair; and
- (6) window repair or replacement

B. Notwithstanding Section 15.120, the repair or replacement of a capital asset not included in the equity incentive computations under Section 15.1373 or reported as a capital asset addition under Section 15.1375, item B, must be reported in the capital repair and replacement cost category when the cost of the item exceeds \$500, or in the plant operations and maintenance cost category when the cost of the item is equal to or less than \$500.

C. To compute the capital repair and replacement payment rate, the allowable annual repair and replacement costs for the reporting year must be divided by actual resident days for the reporting year. The annual allowable capital repair and replacement costs shall not exceed \$150 per licensed bed. The excess of the allowed capital repair and replacement costs over the capital repair and replacement limit shall be a cost carryover to succeeding cost reporting periods, except that sale of a facility, under Section 15.1371, shall terminate the carryover of all costs except those incurred in the most recent cost reporting year. The termination of the carryover shall have effect on the capital repair and replacement rate on the same date as provided in Section 15.1371, item F, for the sale. For rate years beginning after June 30,

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1994, the capital repair and replacement limit shall be subject to the index provided in Section 15.040, item A, subitem (4). For purposes of this section, the number of licensed beds shall be the number used to calculate the nursing facility's capacity days. The capital repair and replacement rate must be added to the nursing facility's total payment rate.

D. Capital repair and replacement costs under this Section shall not be counted as either care-related or other operating costs, nor subject to care-related or other operating limits.

E. If costs otherwise allowable under this section are incurred as the result of a project approved under the moratorium exception process or in connection with an addition to or replacement of buildings, attached fixtures, or land improvements for which the total historical cost of these assets exceeds the lesser of \$150,000 or ten percent of the nursing facility's appraised value, these costs must be claimed under Sections 15.1373 or 15.1374 as appropriate.

**SECTION 15.1373 Major additions and replacements; equity incentive.** For rate years beginning after June 30, 1993, if a nursing facility acquires capital assets in connection with a project approved under the moratorium exception process or in connection with an addition to or replacement of buildings, attached fixtures, or land improvements for which the total historical cost of those capital asset additions exceeds the lesser of \$150,000 or ten percent of the most recent appraised value, the nursing facility shall be eligible for an equity incentive payment rate as in items A to D. This computation is separate from the determination of the nursing facility's rental rate. An equity incentive payment rate as computed under this subdivision is limited to one in a 12-month period.

A. An eligible nursing facility shall receive an equity incentive payment rate equal to the allowable historical cost of the capital asset acquired, minus the allowable debt directly identified to that capital asset, multiplied by the equity incentive factor as described in items B and C and divided by the nursing facility's occupancy factor under Section 15.090, items C or D. This amount shall be added to the nursing facility's total payment rate and shall be effective the same day as the incremental increase in item D or Section 15.1374. The allowable historical cost of the capital assets and the allowable debt shall be determined as provided in this plan.

B. The equity incentive factor shall be determined under subitems (1) to (4):

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(1) divide the initial allowable debt in item A by the initial historical cost of the capital asset additions referred to in item A, then cube the quotient,

(2) subtract the amount calculated in subitem (1) from the number one,

(3) determine the difference between the rental factor and the lesser of two percentage points above the posted yield for standard conventional fixed rate mortgages of the Federal Home Loan Mortgage Corporation as published in the Wall Street Journal and in effect on the first day of the month the debt or cost is incurred, or 16 percent,

(4) multiply the amount calculated in subitem (2) by the amount calculated in subitem (3).

C. The equity incentive payment rate shall be limited to the term of the allowable debt in item A, not greater than 20 years nor less than ten years. If no debt is incurred in acquiring the capital asset, the equity incentive payment rate shall be paid for ten years. The sale of a nursing facility under Section 15.1371 shall terminate application of the equity incentive payment rate effective on the date provided in Section 15.430, item F, for the sale.

D. A nursing facility with an addition to or a renovation of its buildings, attached fixtures, or land improvements meeting the criteria in this section and not receiving the property-related payment rate adjustment in Section 15.1374, shall receive the incremental change in the nursing facility's rental rate as determined under this plan. The incremental change shall be added to the nursing facility's property-related payment rate. The effective date of this incremental change shall be the first day of the month following the month in which the addition or replacement is completed.

#### **SECTION 15.1374 Special provisions for moratorium exceptions.**

A. Notwithstanding Section 15.030 for rate periods beginning on October 1, 1992, and for rate years beginning after June 30, 1993, a nursing facility that has completed a renovation, replacement, or upgrading project approved under the moratorium exception process, or a nursing facility that has received a statutory exception after June 30, 1995, except for a 115 bed county owned nursing facility which has received a statutory exception in 1993, shall be reimbursed for costs directly identified to that project as provided in Section 15.1373 and this section.

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B. Notwithstanding Section 15.050, item A, subitems (1) and (3), and Section 15.070, item D, allowable interest expense on debt shall include:

(1) interest expense on debt related to the cost of purchasing or replacing depreciable equipment, excluding vehicles, not to exceed six percent of the total historical cost of the project; and

(2) interest expense on debt related to financing or refinancing costs, including costs related to points, loan origination fees, financing charges, legal fees, and title searches; and issuance costs including bond discounts, bond counsel, underwriter's counsel, corporate counsel, printing, and financial forecasts. Allowable debt related to items in this clause shall not exceed seven percent of the total historical cost of the project. To the extent these costs are financed, the straight-line amortization of the costs in this clause is not an allowable cost; and

(3) interest on debt incurred for the establishment of a debt reserve fund, net of the interest earned on the debt reserve fund.

C. Debt incurred for costs under item B is not subject to Section 15.050, item A, subitems (5) or (6).

D. The incremental increase in a nursing facility's rental rate, resulting from the acquisition of allowable capital assets, and allowable debt and interest expense under this section shall be added to its property-related payment rate and shall be effective on the first day of the month following the month in which the moratorium project was completed.

E. Notwithstanding Section 15.040, item A, subitem (4) for rate periods beginning on October 1, 1992, and for rate years beginning after June 30, 1993, the replacement-costs-new per bed limit to be used in Section 15.040, item B, for a nursing facility that has completed a renovation, replacement, or upgrading project that has been approved under the moratorium exception process or that has completed an addition to or replacement of buildings, attached fixtures, or land improvements for which the total historical cost exceeds the lesser of \$150,000 or ten percent of the most recent appraised value, must be \$47,500 per licensed bed in multiple-bed rooms and \$71,250 per licensed bed in a single-bed room. These amounts must be adjusted annually as specified in Section 15.040, item A, subitem (4) beginning January 1, 1993.

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F. The Commissioner of the Minnesota Department of Health, in coordination with the Commissioner of the Minnesota Department of Human Services, shall deny each request for new licensed or certified nursing home or certified boarding care beds except as provided under the moratorium exceptions process. "Certified bed" means a nursing home bed or a boarding care bed certified by the Commissioner of health for the purposes of the medical assistance program under United States Code, title 42, sections 1396 et seq.

The Commissioner, in coordination with the Commissioner of the Minnesota Department of Health, shall deny any request to issue a nursing home license to a facility if that license would result in an increase in the medical assistance reimbursement amount.

In addition, the Commissioner of the Minnesota Department of Health must not approve any construction project whose costs exceed \$500,000, or 25 percent of the facility's appraised value, whichever is less, unless:

(1) Any construction costs exceeding the lesser of \$500,000 or 25 percent of the facility's appraised value are not added to the facility's appraised value and are not included in the facility's payment rate for reimbursement under the medical assistance program; or

(2) The project:

(a) has been approved through the moratorium exception process described in state law;

(b) meets an exception described in the moratorium exception state law;

(c) is necessary to correct violations of state or federal law issued by the Commissioner of the Minnesota Department of Health;

(d) is necessary to repair or replace a portion of the facility that was destroyed by fire, lightning, or other hazards provided that the provisions of statute governing replacement are met;

(e) as of May 1, 1992, the facility has submitted to the Commissioner of the Minnesota Department of Health written documentation evidencing that the facility meets the "commenced construction" definition as specified in Section 1.030, or that substantial steps have been taken prior to April 1, 1992, relating to the construction project. "Substantial steps" require that the facility has made arrangements with outside parties relating to the construction

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project and has include the hiring of an architect or construction firm, submission of preliminary plans to the Department of Health or documentation from a financial institution that financing arrangements for the construction project have been made; or

(f) is being proposed by a licensed nursing facility that is not certified to participate in the Medical Assistance Program and will not result in new licensed or certified beds.

G. Prior to the final plan approval of any construction project, the Commissioner of the Minnesota Department of Health shall be provided with an itemized cost estimate for the project construction costs. If a construction project is anticipated to be completed in phases, the total estimated cost of all phases of the project shall be submitted to the Commissioner and shall be considered as one construction project. Once the construction project is completed and prior to the final clearance by the Commissioner of the Minnesota Department of Human Services, the total project construction costs for the construction project shall be submitted to the Commissioner. If the final project construction cost exceeds the dollar threshold in this subdivision, the Commissioner of Human Services shall not recognize any of the project construction costs or the related financing costs in excess of this threshold in establishing the facility's property-related payment rate.

The dollar thresholds for construction projects are as follows: for construction projects other than those authorized in subitems (a) to (f), the dollar threshold is \$500,000 or 25 percent of appraised value, whichever is less. For projects authorized after July 1, 1993, under subitem (a), the dollar threshold is the cost estimate submitted with a proposal for an exception to the state's moratorium law, plus inflation as calculated according to section 15.1378. For projects authorized under subitems (b) to (d), the dollar threshold is the itemized estimate project construction costs submitted to the Commissioner of Health at the time of final plan approval, plus inflation as calculated according to Section 15.1378.

H. For purposes of this section, a total replacement means the complete replacement of the nursing facility's physical plant through the construction of a new physical plant or the transfer of the nursing facility's license from one physical plant location to another.

(1) For total replacement projects completed on or after July 1, 1992, the incremental change in the nursing facility's rental per diem, for rate years beginning on or after July 1, 1995, shall be computed by replacing its appraised value, including the historical capital asset costs, and the capital debt and interest costs with the new nursing facility's allowable capital asset costs and the related allowable capital debt and interest costs.

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(2) If the new nursing facility has decreased its licensed capacity, the aggregate replacement cost new per bed limit in Section 15.040, item G, shall apply.

(3) If the new nursing facility has retained a portion of the original physical plant for nursing facility usage, then a portion of the appraised value prior to the replacement must be retained and included in the calculation of the incremental change in the nursing facility's rental per diem. For purposes of this subitem, the original nursing facility means the nursing facility prior to the total replacement project. The portion of the appraised value to be retained shall be calculated according to clauses (a) to (c):

(a) The numerator of the allocation ratio shall be the square footage of the area in the original physical plant which is being retained for nursing facility usage;

(b) The denominator of the allocation ratio shall be the total square footage of the original nursing facility physical plant;

(c) Each component of the nursing facility's allowable appraised value prior to the total replacement project shall be multiplied by the allocation ratio developed by dividing clause (a) by clause (b).

(4) In the case of either type of total replacement as authorized under statutory exceptions or moratorium process exceptions, the provisions of this subitem will also apply. For purposes of the moratorium exception authorized by statutory exception which permits the relocation of 117 beds from a 138 bed nursing home to a former hospital, if the total replacement involves the renovation and use of an existing Health care facility physical plant, the new allowable capital asset costs and related debt and interest costs shall include first the allowable capital asset costs and related debt and interest costs of the renovation, to which shall be added the allowable capital asset costs of the existing physical plant prior to the renovation, and if reported by the facility, the related allowable capital debt and interest costs.

I. Notwithstanding Section 15.110, item C, subitem (2), for a total replacement as defined in item H, the replacement-costs-new per bed limit are \$74,280 per licensed bed in multiple-bed rooms, \$92,850 per licensed bed in semiprivate rooms with a fixed partition separating the resident beds, and \$111,420 per licensed bed in single rooms. Beginning January 1, 2000, these amounts must be adjusted annually as specified in item E.



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J. Notwithstanding Section 15.110, item C, subitem (2), for a total replacement as defined in item H, for a 96-bed nursing facility in Carlton county, the replacement costs new per bed limit for multiple-bed rooms, for semiprivate rooms with a fixed partition separating the resident beds, and for single rooms are the same as in item I. The resulting maximum allowable replacement costs new multiplied by 1.25 constitute the project's dollar threshold for purposes of application of the \$750,000 plus inflation limit set forth in state law. The deadline for total replacement of this 96-bed nursing facility is May 31, 2000.

**SECTION 15.1375 Appraisals; updating appraisals, additions, and replacements.**

A. Notwithstanding Sections 15.010 to 15.030, the appraised value, routine updating of the appraised value, and special reappraisals are subject to this section.

B. Notwithstanding Section 15.020, for rate years beginning after June 30, 1993, the Commissioner shall routinely update the appraised value of each nursing facility by adding the cost of capital asset acquisitions to its allowable appraised value. The Commissioner shall also annually index each nursing facility's allowable appraised value by the inflation index referenced in Section 15.040, item A, subitem (4), for the purpose of computing the nursing facility's annual rental rate. In annually adjusting the nursing facility's appraised value, the Commissioner must not include the historical cost of capital assets acquired during the reporting year in the nursing facility's appraised value. In addition, the nursing facility's appraised value must be reduced by the historical cost of capital asset disposals or applicable credits such as public grants and insurance proceeds. Capital asset additions and disposals must be reported on the nursing facility's annual cost report in the reporting year of acquisition or disposal. The incremental increase in the nursing facility's rental rate resulting from this annual adjustment shall be added to the nursing facility's property-related payment rate for the rate year following the reporting year.

**Section 15.1376 Refinancing incentive.**

A. A nursing facility that refinances debt after May 30, 1992, in order to save in interest expense payments as determined in subitems (1) to (5) may be eligible for the refinancing incentive under this Section. To be eligible for the refinancing incentive, a nursing facility must notify the Commissioner in writing of such a refinancing within 60 days following the date on which the refinancing occurs. If the nursing facility meets these conditions, the Commissioner shall determine the refinancing incentive as in subitems (1) to (5).

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(1) Compute the aggregate amount of interest expense, including amortized issuance and financing costs, remaining on the debt to be refinanced, and divide this amount by the number of years remaining for the term of that debt.

(2) Compute the aggregate amount of interest expense, including amortized issuance and financing costs, for the new debt, and divide this amount by the number of years for the term of that debt.

(3) Subtract the amount in subitem (2) from the amount in subitem (1), and multiply the amount, if positive, by .5.

(4) The amount in subitem (3) shall be divided by the nursing facility's occupancy factor under Section 15.090, items C or D.

(5) The per diem amount in subitem (4) shall be deducted from the nursing facility's property-related payment rate for three full rate years following the rate year in which the refinancing occurs. For the fourth full rate year following the rate year in which the refinancing occurs, and each rate year thereafter, the per diem amount in subitem (4) shall again be deducted from the nursing facility's property-related payment rate.

B. An increase in a nursing facility's debt for costs in Section 15.1375, item B, subitem (2), including the cost of refinancing the issuance or financing costs of the debt refinanced resulting from refinancing that meets the conditions of this section shall be allowed, notwithstanding Section 15.050, item A, subitem (6).

C. The proceeds of refinancing may not be used for the purpose of withdrawing equity from the nursing facility.

D. Sale of a nursing facility under Section 15.1371 shall terminate the payment of the incentive payments under this section effective the date provided in Section 15.1371, item F, for the sale, and the full amount of the refinancing incentive in item A shall be implemented.

E. If a nursing facility eligible under this section fails to notify the Commissioner as required, the Commissioner shall determine the full amount of the refinancing incentive in item A, and shall deduct one-half that amount from the nursing facility's property-related payment rate effective the first day of the month following the month in which the refinancing is completed. For the next three full rate years, the Commissioner shall deduct one-half the amount in item A, subitem (5). The remaining per diem amount shall be deducted in each rate